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SUBJECT: 12/22 UKRAINE WTO UPDATE

REF: A. YARNELL-KLEIN EMAIL OF 12/20

[1](#)B. KASPER-KLEIN EMAIL OF 12/19

[1](#)C. KYIV 4576

[1](#)D. KYIV 4531

[1](#)E. KYIV 4415

[1](#)1. (SBU) Summary: Ukrainian WTO negotiators held consultations with Working Party members in Geneva on December 18. The GOU is anxious for feedback on its recently passed legislation, although anticipates having to make some additional legislative fixes to ensure WTO conformity. A law on biotechnology products is the only outstanding law not passed in any form, although Ministry of Economy officials say that the drafting process is now underway. Ukrainian and Kyrgyz negotiators may have made a breakthrough on a bilateral Market Access Agreement, the last remaining for Ukraine's accession, but political turmoil in Kyrgyzstan could complicate the deal. Ministry of Agriculture officials offered a "compromise" on beef and pork but still link resumption of trade to conducting an audit of the U.S. veterinary inspection system. End Summary.

[1](#)2. (U) This latest edition in a series of regular update cables regarding the status of Ukraine's WTO accession (refs C-E) covers the period December 18-22.

Consultations on WTO Legislation  
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[1](#)3. (U) Deputy Minister of Economy Valeriy Pyatnytskiy and his team of WTO negotiators met with Working Party members on December 18 in Geneva to review accession progress (ref B). Ukrainian negotiators told Econoff on December 20 that they were reasonably satisfied with the consultations, and are anxious to receive comments from Working Party members on the recently passed WTO legislation.

[1](#)4. (SBU) As described in ref D, one of the laws on the GOU's list -- "On Value Added Tax (regarding taxation of agricultural enterprises)" -- was supposed to cancel the discriminatory VAT regime on agricultural enterprises. The Rada had in October passed a routine, annual measure (Law 273-V) that partially extended the existing VAT regime for one year, and on November 3 decided not to consider the new draft on the subject (Draft Law 2389). However, the GOU has decided to forward the passed VAT law for review by Working Party members along with the rest of the WTO-required laws, while admitting to us and the WTO that this law is flawed. Vyacheslav Tsymbal, Director of the Ministry of Economy's WTO

Division, reiterated on December 20 that he anticipates having to introduce new legislation after the New Year. To avoid confusion, Post will include this VAT law on our list of passed laws, which now number 20, with the caveats listed above.

15. (SBU) From our summer list of 21 laws thought needed for accession, only the law on biotechnology products has not passed in any form. Pyatnytskiy had previously told Econ Counselor that the GOU does not formally link this law to accession, since it is a bilateral commitment to the USG and not part of WTO conformity (ref C). The Cabinet of Ministers has tasked the Ministries of Agriculture and Health to draft the law, and Tsymbal told Econoff on December 20 that the Ministry of Economy is also actively involved in the drafting process. Tsymbal said that the GOU is using the previous, failed version of the biotech law (which Post passed to Washington in ref A) as the starting point for the new law. Ministry of Health official Mykola Prodanchuk told Econoff that the GOU's health-related concerns do not involve U.S. biotechnology products, but rather those from countries with lower safety standards, such as China.

#### Outstanding Government Resolutions

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16. (U) In addition to the list of 21 laws, the GOU identified approximately eight resolutions that it believed were necessary to bring Ukrainian regulations in line with WTO standards and commitments made to trading partners. The Ministry of Economy issued one of these resolutions, involving import licensing, on November 10. The Cabinet of Ministers will need to issue most of the outstanding resolutions. Tsymbal told Econoff that he did not expect any difficulties with the resolutions, which the Ministry of

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Economy had already drafted, and thought they would be issued within a matter of weeks.

#### Concluding Bilateral Agreements: Kyrgyz Progress

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17. (U) Ukraine signed a bilateral Market Access Agreement with Taiwan on December 14 (ref C). Kyrgyzstan is now the sole remaining holdout who has not signed an agreement with Ukraine. Ukrainian negotiators met with members of the Kyrgyz delegation in Geneva on December 18. Citing an unnamed source "who participated in the negotiations" -- likely a member of the Ukrainian side, Ukrainian daily Kommersant Ukraina reported December 19 that the Kyrgyz made significant concessions at this meeting. According to the Kommersant source, the Kyrgyz agreed to sign a bilateral agreement in exchange for Ukraine dropping its safeguard measures against Kyrgyz light bulbs, which have cut Kyrgyz producers such as OJSC Mailuu-Suu out of the Ukrainian market.

18. (SBU) Pyatnytskiy confirmed to Econoff on December 20 that the discussions focused on current safeguard measures against Kyrgyz producers. (Note: GOU officials had previously complained that the Kyrgyz were making demands for repayment of Soviet-era debt and regarding sensitive agricultural issues. End Note.) Pyatnytskiy downplayed the progress, however, noting that he still had not held direct talks with Bishkek, and that the recent resignation of the Kyrgyz cabinet could complicate the negotiations.

#### Imports of U.S. Beef and Pork

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19. (SBU) Ministry of Agriculture officials told Acting Econ Counselor on December 22 that they were willing to "compromise" on U.S. beef and pork imports, but outlined a proposal that continued to link the resumption of trade to conducting an audit of the U.S. veterinary inspection system.

Deputy Minister Petro Verbitsky initially said that Ukraine would begin permitting imports of U.S. beef and pork as soon as Ukraine was invited to begin its audit. Verbitsky however, backed away from even that proposal after chief veterinarian Ivan Byesiuk stated categorically that Ukraine would not permit the imports until the audit was in fact complete. In the end, the Ministry of Agriculture proposal was to conduct the audit quickly in January, so that trade could begin to flow soon. Acting Econ Counselor said that the March bilateral agreement did not link resumption of trade to the audit, and that U.S. agencies would be glad to discuss audits once trade had resumed. He promised to relay the Ministry's proposal to Washington.

¶10. (SBU) The Ministry of Agriculture officials were aware of the shipment of beef livers that was originally refused entry at Odessa port, and was now again en route to Odessa for another attempt to bring the product in. Verbitsky said that if the U.S. agreed to invite Ukrainian inspectors to conduct an audit in early January, the cargo would be admitted to port when it arrives (planned for Dec. 26), assuming the product passed laboratory testing.

¶11. (SBU) The Ministry officials were unable to produce a copy of the document promised in Washington showing that the Ministry had instructed port officials to honor the U.S. veterinary certificates negotiated and agreed to in March. Instead, said Deputy Chief Veterinarian Horsheyev, all the Ministry had done was to pass to port officials a copy of the U.S. certificates for their information. Acting Econ Counselor asked whether that meant there had been no "green light" from the Ministry to accept the certificates. Chief vet Bisjuk responded, "That's exactly right, no products can enter Ukraine without the express permission of the Veterinary Service."

Taylor